

Calendar No. 563

104TH CONGRESS
2D Session

S. 982

A BILL

To protect the national information infrastructure,
and for other purposes.

August 2, 1996

Reported with an amendment

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2D SESSION**S. 982**

To protect the national information infrastructure, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29 (legislative day, JUNE 19), 1995

Mr. KYL (for himself, Mr. LEAHY, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

AUGUST 2, 1996

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To protect the national information infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Information
5 Infrastructure Protection Act of 1995”.

1 **SEC. 2. COMPUTER CRIME.**

2 Section 1030 of title 18, United States Code, is
3 amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)—

6 (i) by striking “knowingly accesses”
7 and inserting “having knowingly accessed”;

8 (ii) by striking “exceeds” and insert-
9 ing “exceeding”;

10 (iii) by striking “obtains information”
11 and inserting “having obtained informa-
12 tion”;

13 (iv) by striking “the intent or”;

14 (v) by striking “is to be used” and in-
15 serting “could be used”; and

16 (vi) by inserting before the semicolon
17 at the end the following: “willfully commu-
18 nicates, delivers, transmits, or causes to be
19 communicated, delivered, or transmitted,
20 or attempts to communicate, deliver, trans-
21 mit or cause to be communicated, deliv-
22 ered, or transmitted the same to any per-
23 son not entitled to receive it, or willfully
24 retains the same and fails to deliver it to
25 the officer or employee of the United
26 States entitled to receive it”;

1 (B) in paragraph (2)—

2 (i) by striking “obtains information”
3 and inserting “obtains—
4 “(A) information”; and

5 (ii) by adding at the end the follow-
6 ing:

7 “(B) information from any department or
8 agency of the United States; or

9 “(C) information from any protected com-
10 puter if the conduct involved an interstate or
11 foreign communication;”;

12 (C) in paragraph (3)—

13 (i) by striking “the use of the Govern-
14 ment’s operation of such computer” and
15 inserting “that use by or for the Govern-
16 ment of the United States”; and

17 (ii) by striking “adversely”;

18 (D) in paragraph (4)—

19 (i) by striking “Federal interest” and
20 inserting “protected”; and

21 (ii) by inserting before the semicolon
22 the following: “and the value of such use
23 is not more than \$5,000 in any 1-year pe-
24 riod”;

1 (E) by amending paragraph (5) to read as
 2 follows:

3 ~~“(5)(A) knowingly causes the transmission of a~~
 4 ~~program, information, code, or command, and as a~~
 5 ~~result of such conduct, intentionally causes damage~~
 6 ~~without authorization, to a protected computer;~~

7 ~~“(B) intentionally accesses a protected com-~~
 8 ~~puter without authorization, and as a result of such~~
 9 ~~conduct, recklessly causes damage; or~~

10 ~~“(C) intentionally accesses a protected com-~~
 11 ~~puter without authorization, and as a result of such~~
 12 ~~conduct, causes damage;”~~; and

13 (F) by inserting after paragraph (6) the
 14 following new paragraph:

15 ~~“(7) with intent to extort from any person,~~
 16 ~~firm, association, educational institution, financial~~
 17 ~~institution, government entity, or other legal entity,~~
 18 ~~any money or other thing of value, transmits in~~
 19 ~~interstate or foreign commerce any communication~~
 20 ~~containing any threat to cause damage to a pro-~~
 21 ~~ected computer;”~~;

22 (2) in subsection (c)—

23 (A) in paragraph (1), by striking “such
 24 subsection” each place it appears and inserting
 25 “this section”;

1 (B) in paragraph (2)—

2 (i) in subparagraph (A)—

3 (I) by inserting “, (a)(5)(C),”

4 after “(a)(3)”; and

5 (II) by striking “such sub-
6 section” and inserting “this section”;

7 (ii) by redesignating subparagraph
8 (B) as subparagraph (C);

9 (iii) by inserting immediately after
10 subparagraph (A) the following:

11 “(B) a fine under this title or imprison-
12 ment for not more than 5 years, or both, in the
13 case of an offense under subsection (a)(2), if—

14 “(i) the offense was committed for
15 purposes of commercial advantage or pri-
16 vate financial gain;

17 “(ii) the offense was committed in
18 furtherance of any criminal or tortious act
19 in violation of the Constitution or laws of
20 the United States or of any State; or

21 “(iii) the value of the information ob-
22 tained exceeds \$5,000;” and

23 (iv) in subparagraph (C) (as redesign-
24 ated), by striking “such subsection” and
25 inserting “this section”;

1 (C) in paragraph (3)—

2 (i) in subparagraph (A)—

3 (I) by striking “(a)(4) or
4 (a)(5)(A)” and inserting “(a)(4),
5 (a)(5)(A), (a)(5)(B), or (a)(7)”; and

6 (H) by striking “such sub-
7 section” and inserting “this section”;
8 and

9 (ii) in subparagraph (B)—

10 (I) by striking “(a)(4) or (a)(5)”
11 and inserting “(a)(4), (a)(5)(A),
12 (a)(5)(B), (a)(5)(C), or (a)(7)”; and

13 (H) by striking “such sub-
14 section” and inserting “this section”;
15 and

16 (D) by striking paragraph (4);

17 (3) in subsection (d), by inserting “subsections
18 (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and
19 (a)(6) of” before “this section.”;

20 (4) in subsection (e)—

21 (A) in paragraph (2)—

22 (i) by striking “Federal interest” and
23 inserting “protected”;

24 (ii) in subparagraph (A), by striking
25 “the use of the financial institution’s oper-

1 ation or the Government's operation of
2 such computer" and inserting "that use by
3 or for the financial institution or the Gov-
4 ernment"; and

5 (iii) by amending subparagraph (B) to
6 read as follows:

7 “(B) which is used in interstate or foreign
8 commerce or communication;”;

9 (B) in paragraph (6), by striking “and”
10 the last place it appears;

11 (C) by striking the period at the end of
12 paragraph (7) and inserting “; and”; and

13 (D) by adding at the end the following new
14 paragraphs:

15 “(8) the term ‘damage’ means any impairment
16 to the integrity or availability of data, a program, a
17 system, or information, that—

18 “(A) causes loss aggregating at least
19 \$5,000 in value during any 1-year period to one
20 or more individuals;

21 “(B) modifies or impairs, or potentially
22 modifies or impairs, the medical examination,
23 diagnosis, treatment, or care of one or more in-
24 dividuals;

1 “(C) causes physical injury to any person;

2 or

3 “(D) threatens public health or safety; and

4 “(9) the term ‘government entity’ includes the

5 Government of the United States, any State or polit-

6 ical subdivision of the United States, any foreign

7 country, and any state, province, municipality, or

8 other political subdivision of a foreign country.”; and

9 (5) in subsection (g)—

10 (A) by striking “, other than a violation of

11 subsection (a)(5)(B),”; and

12 (B) by striking “of any subsection other

13 than subsection (a)(5)(A)(ii)(II)(bb) or

14 (a)(5)(B)(ii)(II)(bb)” and inserting “involving

15 damage as defined in subsection (e)(8)(A)”.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “National Information*

18 *Infrastructure Protection Act of 1996”.*

19 **SEC. 2. COMPUTER CRIME.**

20 *Section 1030 of title 18, United States Code, is amend-*

21 *ed—*

22 (1) in subsection (a)—

23 (A) in paragraph (1)—

24 (i) by striking “knowingly accesses”

25 and inserting “having knowingly accessed”;

1 (ii) by striking “exceeds” and inserting
2 “exceeding”;

3 (iii) by striking “obtains information”
4 and inserting “having obtained informa-
5 tion”;

6 (iv) by striking “the intent or”;

7 (v) by striking “is to be used” and in-
8 serting “could be used”; and

9 (vi) by inserting before the semicolon
10 at the end the following: “willfully commu-
11 nicates, delivers, transmits, or causes to be
12 communicated, delivered, or transmitted, or
13 attempts to communicate, deliver, transmit
14 or cause to be communicated, delivered, or
15 transmitted the same to any person not en-
16 titled to receive it, or willfully retains the
17 same and fails to deliver it to the officer or
18 employee of the United States entitled to re-
19 ceive it”;

20 (B) in paragraph (2)—

21 (i) by striking “obtains information”
22 and inserting “obtains—
23 “(A) information”; and

24 (ii) by adding at the end the following
25 new subparagraphs:

1 “(B) information from any department or
2 agency of the United States; or

3 “(C) information from any protected com-
4 puter if the conduct involved an interstate or for-
5 eign communication;”;

6 (C) in paragraph (3)—

7 (i) by inserting “nonpublic” before
8 “computer of a department or agency”;

9 (ii) by striking “adversely”; and

10 (iii) by striking “the use of the Govern-
11 ment’s operation of such computer” and in-
12 serting “that use by or for the Government
13 of the United States”;

14 (D) in paragraph (4)—

15 (i) by striking “Federal interest” and
16 inserting “protected”; and

17 (ii) by inserting before the semicolon
18 the following: “and the value of such use is
19 not more than \$5,000 in any 1-year pe-
20 riod”;

21 (E) by striking paragraph (5) and inserting
22 the following:

23 “(5)(A) knowingly causes the transmission of a
24 program, information, code, or command, and as a

1 *result of such conduct, intentionally causes damage*
 2 *without authorization, to a protected computer;*

3 “(B) *intentionally accesses a protected computer*
 4 *without authorization, and as a result of such con-*
 5 *duct, recklessly causes damage; or*

6 “(C) *intentionally accesses a protected computer*
 7 *without authorization, and as a result of such con-*
 8 *duct, causes damage;”*; and

9 (F) *by inserting after paragraph (6) the fol-*
 10 *lowing new paragraph:*

11 “(7) *with intent to extort from any person, firm,*
 12 *association, educational institution, financial institu-*
 13 *tion, government entity, or other legal entity, any*
 14 *money or other thing of value, transmits in interstate*
 15 *or foreign commerce any communication containing*
 16 *any threat to cause damage to a protected computer;”*;

17 (2) *in subsection (c)—*

18 (A) *in paragraph (1), by striking “such*
 19 *subsection” each place that term appears and in-*
 20 *serting “this section”*;

21 (B) *in paragraph (2)—*

22 (i) *in subparagraph (A)—*

23 (I) *by inserting “, (a)(5)(C),”*
 24 *after “(a)(3)”*; and

1 (II) by striking “such subsection”
2 and inserting “this section”;

3 (ii) by redesignating subparagraph (B)
4 as subparagraph (C);

5 (iii) by inserting immediately after
6 subparagraph (A) the following:

7 “(B) a fine under this title or imprison-
8 ment for not more than 5 years, or both, in the
9 case of an offense under subsection (a)(2), if—

10 “(i) the offense was committed for pur-
11 poses of commercial advantage or private fi-
12 nancial gain;

13 “(ii) the offense was committed in fur-
14 therance of any criminal or tortious act in
15 violation of the Constitution or laws of the
16 United States or of any State; or

17 “(iii) the value of the information ob-
18 tained exceeds \$5,000;” and

19 (iv) in subparagraph (C) (as redesign-
20 ated)—

21 (I) by striking “such subsection”
22 and inserting “this section”; and

23 (II) by adding “and” at the end;
24 (C) in paragraph (3)—

25 (i) in subparagraph (A)—

1 (I) by striking “(a)(4) or
2 (a)(5)(A)” and inserting “(a)(4),
3 (a)(5)(A), (a)(5)(B), or (a)(7)”; and

4 (II) by striking “such subsection”
5 and inserting “this section”; and
6 (ii) in subparagraph (B)—

7 (I) by striking “(a)(4) or (a)(5)”
8 and inserting “(a)(4), (a)(5)(A),
9 (a)(5)(B), (a)(5)(C), or (a)(7)”; and

10 (II) by striking “such subsection”
11 and inserting “this section”; and

12 (D) by striking paragraph (4);

13 (3) in subsection (d), by inserting “subsections
14 (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6)
15 of” before “this section.”;

16 (4) in subsection (e)—

17 (A) in paragraph (2)—

18 (i) by striking “Federal interest” and
19 inserting “protected”;

20 (ii) in subparagraph (A), by striking
21 “the use of the financial institution’s oper-
22 ation or the Government’s operation of such
23 computer” and inserting “that use by or for
24 the financial institution or the Govern-
25 ment”; and

1 (iii) by striking subparagraph (B) and
2 inserting the following:

3 “(B) which is used in interstate or foreign
4 commerce or communication;”;

5 (B) in paragraph (6), by striking “and” at
6 the end;

7 (C) in paragraph (7), by striking the period
8 at the end and inserting “; and”; and

9 (D) by adding at the end the following new
10 paragraphs:

11 “(8) the term ‘damage’ means any impairment
12 to the integrity or availability of data, a program, a
13 system, or information, that—

14 “(A) causes loss aggregating at least \$5,000
15 in value during any 1-year period to one or
16 more individuals;

17 “(B) modifies or impairs, or potentially
18 modifies or impairs, the medical examination,
19 diagnosis, treatment, or care of one or more in-
20 dividuals;

21 “(C) causes physical injury to any person;
22 or

23 “(D) threatens public health or safety; and

24 “(9) the term ‘government entity’ includes the
25 Government of the United States, any State or politi-

1 *cal subdivision of the United States, any foreign*
2 *country, and any state, province, municipality, or*
3 *other political subdivision of a foreign country.”; and*

4 *(5) in subsection (g)—*

5 *(A) by striking “, other than a violation of*
6 *subsection (a)(5)(B),”; and*

7 *(B) by striking “of any subsection other*
8 *than subsection (a)(5)(A)(ii)(II)(bb) or*
9 *(a)(5)(B)(ii)(II)(bb)” and inserting “involving*
10 *damage as defined in subsection (e)(8)(A)”.*